

Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of

Closed Captioning of Video Programming

Telecommunications for the Deaf, Inc.
Petition for Rulemaking

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) CG Docket No. 05-231

Comments of the National Court Reporters Association

National Court Reporters Association
8224 Old Courthouse Road
Vienna, VA 22182
November 5, 2005

NCRA is a 26,000-member nonprofit organization representing the judicial reporting and captioning professions. Members include official court reporters, deposition reporters, realtime captioners, providers of realtime communication access services for deaf and hard-of-hearing people and others who capture and convert the spoken word into information bases and readable formats.

NCRA Focus on Certification and Standards

For the last 20 years, NCRA has focused a great deal of its attention on realtime,¹ not only in educating the general public about the advantages of this technology, but also training our members to provide this essential service. Realtime stenographic court reporters offer the only proven method for providing immediate voice-to-text translation. From realtime came the closed captioning profession, tasked with the critical responsibility of ensuring full and effective communication access of television programming for the nation's 28 million deaf and hard-of-hearing Americans.

This focus on realtime has been closely tied to NCRA's primary purpose during its 106-year history: education and certification. NCRA began its certification program in 1937 and continues to expand as the needs of the profession and our members' consumers change. It should be noted that NCRA offers the only national certification for realtime writers that is independently validated. The goal of all certification programs is to raise the level of competence and professionalism of the practitioners in the industry. For the individual practitioner, certification provides a specific road map of the knowledge and skills needed in order to meet minimum standards of qualification, as well as an independent validation of competence that reporters can use to distinguish themselves in the market.

Furthermore, the benefits of certification go beyond the individual reporter and profession to the users of realtime captioning services. A certification establishes a minimum level of competency, codes of professional ethics, succinct rules of practice and continuing-education requirements that consumers and purchasers can use to judge the quality of services offered.

Two certifications particularly relevant to a discussion of caption quality are the Registered Professional Reporter (RPR) and Certified Realtime Reporter (CRR) designations. In many states, the RPR designation is a requirement to work in that state, and achievement of the CRR designation can lead to a higher income as a

¹ Realtime involves linking a court reporter's or realtime captioner's steno machine to a computer. The individual's steno strokes are compared to a job dictionary, with the computer instantly translating the stenographic notes into English text for immediate display.

result of that individual's advanced skill level. In order to become an RPR, the individual must pass a written knowledge test and three sections of a skills test: literary material at 180 words per minute (wpm), jury charge at 200 wpm, and Testimony/Q&A at 225 wpm. In order to become a CRR, the individual must pass a written knowledge test and a skills test composed of literary material at 180 wpm.

Not surprisingly, the RPR and CRR are used as a standard in some captioning contracts. Recognizing the unique skill required of realtime captioners, NCRA introduced the Certified Broadcast Captioner (CBC) designation, which has the same requirements as the CRR, in 2003 in order to provide a better determination of an individual's capacity to meet entry-level standards for providing quality captioning. Tied to all NCRA certification programs is a stringent continuing education requirement to ensure that practitioners remain current in a rapidly changing environment.²

In addition, as a part of the effort to ensure qualified realtime captioners, NCRA's Captioning Community of Interest, tasked with meeting the needs of NCRA's member captioners, regularly focuses its attention on professionalism, ethics, skills, and knowledge. A good example of this is the Guidelines for Professional Practice, which detail what should be expected of a qualified captioner.

Two Critical Distinctions

Two critical distinctions must be maintained when examining the issue of captioning quality as noted by the Commission in its Notice of Proposed Rulemaking:

First, the distinction between technical vs. nontechnical quality standards. Technical standards are a question of equipment and affect the actual quality of the captions after the captions have been produced by the realtime captioner. Nontechnical standards go to the skill, knowledge and ability of the realtime captioner, and is the one area where the realtime captioner has control over the actual quality of the captions.

Second, the distinction between live vs. prerecorded captioning. Providing captions in a live environment is extremely demanding, as there is only one chance for the realtime captioner to get it right before those captions are broadcast to the viewing public. In the offline captioning environment, captions can be provided in two ways:

- Captions are added to prerecorded material, usually by an offline captioner or editor using a computer keyboard. Scenes can be played back multiple times to ensure that what the individual heard is what appears in Line 21.

² NCRA certified members are required to earn 3 CEUs (30 hours) of continuing education every three years.

Prerecorded captioning of this type should be held to a higher standard because the offline captioner or editor controls the process.

- Captions may have also already been placed on prerecorded material in that the programming was first captioned live, then re-played by the distributor or network with the original captions. In this situation, the captioner only had one chance to ensure the accuracy of the captions.

Nontechnical Quality Standards

NCRA strongly believes that:

- There needs to be a fair, objective standard for quality captioning.
- Best practices need to be established within the industry. (NCRA has, in fact, already begun this process with the development of the Guidelines for Professional Practice for Captioners, which offer guidance on what should be expected of a qualified captioner.)
- Mechanisms to ensure that only those individuals qualified to provide quality captions are assigned this essential responsibility need to be introduced and applied throughout the industry.

As we've seen in emergency situations, such as wildfires in California or hurricanes in Florida and the Gulf Coast, for millions of deaf and hard-of-hearing Americans, accurate captions are often the only way to receive critical information in an emergency situation, and, in fact, can often be the difference between life and death.

Clearly there is a need to come up with an objective standard as to captioning quality, and NCRA would certainly welcome and support such a standard if one could be developed that is fair and reasonable and takes into account the inherent challenges of providing quality live captioning. However, it would be extremely difficult to develop an accuracy standard that could be agreed to by the captioning industry as a whole. An argument could be made for a certain percentage accuracy during every live captioned program. But, how do you measure that accuracy in an objective manner?

Realtime captioners strive to achieve 100 percent verbatim accuracy. Nevertheless, their primary concern is the audience's understanding of what is said. For example, if the word "drizzle" is spoken during the broadcast, and the captioner knows that that word is not in their job dictionary and expects that writing that word could lead to an error on the screen, the captioner will substitute a different word or words that he or she knows is in their dictionary, such as "light rain," to ensure that viewers have a full understanding of what was said. Is such a change an error or really an example of a qualified captioner knowing how to adjust as needed to ensure the audience's full comprehension?

Trying to define an error could be problematic. If steno strokes appear in the place of a word, then clearly it is an error. But if certain words are replaced with other words, or some nonessential words are dropped, all to ensure the comprehension of the viewer, should that also be defined as an error?

Moreover, it should be noted that in certain situations, no matter how qualified or prepared the realtime captioner, it may be impossible to provide good quality captioning.

- A rapid-fire news program, such as *Crossfire* or *The McLaughlin Report*, in which several individuals often engage in heated discussion and regularly talk over one another, serves as perhaps the best example of the challenges faced by realtime captioners.
- Another example would be a captioner asked to pick up a program at the last minute for which they have no preparation. (Before every assignment, qualified realtime captioners research the programming as much as possible so that they understand the issues and have prepared for any unique or specific vocabulary.) In a last-minute situation, if the realtime captioner does not have experience or knowledge of the content of the programming, the inability to adequately prepare will likely have a negative impact on the quality of the captions.

It would be unfair to hold a realtime captioner accountable for the level of captioning difficulty attached to a particular program. But it would certainly be appropriate that no matter the level of difficulty of particular programming that only those individuals qualified to take on that challenge are given the opportunity to do so.³

Because developing a standard is not an exact science, perhaps effort should also be focused on the development of guidelines or best practices that concentrate on the completeness, accuracy, and timeliness of the captions. NCRA would support the introduction of a new notice focused on the development of best practices, allowing for a discussion among the industry players, consumers, and other stakeholders so that all issues and viewpoints can be considered.

NCRA also believes that additional attention should be paid to ensuring that those individuals charged with providing closed captioning are required to:

- Attain the appropriate certifications and regular continuing education (in order to maintain NCRA certification, individuals must meet specific

³ NCRA's Guidelines for Professional Practice for Broadcast Captioners states, "Accept assignments using discretion with regard to skill, technical capability, setting, and the consumers involved, and accurately represent the provider's qualifications for broadcast captioning."

continuing education requirements every three years, which helps to ensure that qualified captioners continue to update their knowledge and skill set over time), and/or

- Pass rigorous training programs or placement exams conducted by qualified captioning companies. Many captioning companies have developed their own standards that must be met or training programs that must be completed before an individual can caption live programming. Moreover, when seeking to identify qualified captioners, in addition to certifications, these companies often also consider knowledge and experience within the field, professionalism, understanding of professional practice guidelines, etc.

The importance of these individual standards can be seen in the fact that many captioning contracts with national networks often demand that only individuals who have achieved a certain certification, such as the Registered Professional Reporter (RPR), Certified Realtime Reporter (CRR), or Certified Broadcast Captioner (CBC) designations, may be allowed to provide captioning to fulfill the requirements of that contract.

If a national standard for accuracy cannot be agreed to by all stakeholders, then NCRA would propose that guidelines or best practices be developed that could be used to ensure that all providers of captioning services have full understanding of what's expected of them and/or regulate who can provide captions. In this way, the onus for ensuring the quality of the captioning work force falls to the captioning industry through the form of adherence to best practices and self-regulation. Such an approach would also ensure that there would be an adequate number of competent, qualified captioners, whether these individuals achieved a particular national certification or completed a captioning company's training program.

Technical Quality Standards

NCRA strongly believes that technical quality standards should be established and firmly enforced. In our experience, the greatest challenge in the captioning industry is the production of quality captions for live programming. If this challenge has been met, and the captions produced, there is no legitimate reason for not ensuring that specific technical requirements are met so that captions can be passed through without incident.

It should be noted that technical problems with captions can occur for a variety of reasons. As the National Captioning Institute explains on its Web site,⁴ captions that are missing or become garbled "stem from different sources depending on the type of broadcast, such as network, syndication or cable. The captions are delicate, and they travel from the caption company to the broadcaster through the

⁴ See <http://www.ncicap.org/FAQ1.asp>.

phone lines, go through the encoding equipment, then get bounced to the satellites, local stations and cable companies, and finally pass through the home receiver, so there are many opportunities for them to encounter interference that impairs their quality. Since the caption data is inserted directly into the television transmission signal, anything blocking the signal path will cause the captions to become garbled or disappear altogether. A weak transmission of a television signal, poor reception of the television signal as it travels into the home, or cable problems in the home can also garble captions or cause white boxes to appear within captions. Words with pairs of letters missing, such as 'I msd y' for 'I missed you' does not result from poor quality captioning, but is an indicator of a reception or television station equipment problem. High quality equipment has a greater tolerance for error and is better able to decode the captions in spite of interference. A related problem may occur when a cable company leaves off some of the 'unused' lines of the TV signal. If they do this, then sometimes the caption decoder chip can't find the line where the captions are, so the captions don't appear."

Furthermore, to the issue of why a program appearing on a channel has captions and the same program repeated on another channel does not, NCI explains that "Once a program is captioned, then the captions should stay with that program for rebroadcast—unless the program has been edited. Any changes to a program will affect the captions. In some cases, a captioned program is aired on network television and later rebroadcast on cable. However, the cable version may appear without captions. In this case, the new program provider altered the program, perhaps to fit it within a specific time slot or to add commercial breaks. This adjustment changed the time-coded caption data, preventing the captions from appearing. To correct this problem for future broadcasts, the programmer must have the captions reformatted (or edited and re-timed). It also is possible that the new program provider received uncaptioned master videotape and was not aware that a captioned version was available. This may be the case with some uncaptioned home videos of programs that were broadcast with captions."

Rigorous monitoring and enforcement is needed to ensure the timely discovery and isolation of the source of technical problems and their quick resolution.

Monitoring of Captioning

Requiring distributors to perform daily, logged checks of the captioning to ensure that the captioning is delivered intact to consumers is one possible option.

To assist in this effort, and to provide a more active response to consumer complaints, another option would be to create a Consumer Captioning Council. Many captioning companies that receive federal grants to pay for captioning are often required to establish such councils so that consumers have input with regard

to the captioning produced under the grants. Such a national Council could be charged with working with distributors to spot check captioning, offer information and assistance to ensure distributors remain in compliance while also serving as a liaison between consumers and distributors, and provide a mechanism for dealing with consumer complaints faster and in a more effective manner. Oftentimes, there is a great deal of miscommunication between consumers and distributors with regard to captioning. By developing mechanisms that would allow for more effective communication and more immediate action, the needs of both parties (consumers and distributors) can be more fairly met.

Consumers continue to become more proactive in identifying problems with captioning, and developing a mechanism that would bring together consumers and distributors to address these issues jointly could help create an environment more conducive to employing more effective solutions.

Complaint Procedures

NCRA fully supports the development of more effective mechanisms to ensure that consumers are receiving captions as expected and that reasonable policies and procedures are in place so that problems or issues with captions can be addressed quickly.

Furthermore, NCRA supports TDI's suggestion that the Commission establish two categories of complaints, one regarding the number of hours captioned and the other regarding other captioning issues not related to the number of hours captioned (e.g., technical problems resulting in missing or garbled captions), and the development of a standard complaint form that could be available via the Web. Such an approach would certainly work in favor of the development of a Consumer Captioning Council that could function as an ombudsman for these and other difficulties, saving the Commission from having to get involved in difficulties that can be worked out between the complainant and the distributor and reserving those complaints for the Commission that truly deserve its attention.

Moreover, there appears to be a need for additional education on the problems that occur frequently with captioning to ensure the individuals responsible for correcting these problems or ensuring they don't occur are better informed. This suggests the need for the development of clear policies and procedures at every level of the network distribution system that allows for more effective action to deal with technical difficulties associated with captioning.

Use of Electronic Newsroom Technique

NCRA believes that the issue with regard to Electronic Newsroom Technique is not the technology that distributors are using to meet the objective of quality captioning, but whether they are successful in ensuring full and effective

communication with their viewers who are deaf or hard of hearing? The captioning must accurately reflect the audio content. Unfortunately, oftentimes electronic newsroom scripting does not provide full and effective communication. This offers another clear example as to why there is a need to focus on the development of best practices within the industry.

Availability of Captioners

As was noted previously, NCRA strongly believes that there needs to be a clear distinction between realtime captioners and those individuals who prepare prerecorded captioning, what could be called an offline captioner or editor. The skills and knowledge base required of a qualified realtime captioner greatly exceed that of the offline captioner. Realtime captioners must often go through two to four years of training and formal education both in the development of the skill of realtime writing and the acquisition of the technical and academic knowledge required to function effectively in a situation that offers only one chance to provide an accurate record of what was said.

NCRA is heavily engaged in ensuring a constant and increasing stream of captioners through such activities as:

- Placing hundreds of career articles in newspapers and magazines.
- Working closely with the Bureau of Labor Statistics to ensure the description in the *Occupational Outlook Handbook* is accurate.
- Placing print advertisements in national magazines and five national cable TV channels, including CNN.
- Assisting realtime training programs with their student recruitment efforts.

In fact, in the past four years, due in large part to these initiatives and the acquisition of limited federal funds, enrollment at NCRA-approved programs has increased 39 percent. The importance of this increase is demonstrated by the fact that the Bureau of Labor Statistics has reported that employment for court reporters, CART providers, and realtime captioners is expected to grow 10-20 percent through 2012.

Legislation is pending before Congress that, if passed, would authorize the Department of Commerce's National Telecommunications and Information Administration to provide competitive grants totaling \$80 million over a four-year period for training realtime court reporters and realtime captioners. The Senate unanimously passed S. 268, the Training for Realtime Writers Act, on July 1. The bill is now under consideration in the House.

As a stopgap measure, since 2001, Congress has authorized earmark appropriations of \$12 million to 22 court reporting programs across the country to

address the training issue. While the funding has had a positive impact, it is far from adequate to achieve the graduation rates of reporters that are necessary to meet the demands of the 1996 Telecommunications Act. Congress has included language in the appropriations bills stating that this issue needs an immediate, pragmatic solution. For example, language in the recently passed Labor/HHS/Education Appropriations stated: "The Committee is deeply concerned about the ability of the 28 million Americans who are deaf or hard of hearing to be informed of critical news and information in the post-9/11/01 environment. The Committee is aware that court reporting schools may not be able to meet the 'unfunded mandate' set by the Telecommunications Act of 1996 to provide closed captioning of 100 percent of broadcast programming by January 2006. These compelling concerns justify continued Federal support to those schools to increase their capability to attract and train more realtime writers and to work closely with the broadcasting industry to significantly increase the amount of programming that is closed captioned, that 100 million Americans utilize closed captioning in some form and the shortage of providers needs to be addressed immediately."

One of the challenges, of course, is that the need for realtime reporting services is not limited to the captioning industry. The demand for realtime reporters in the courts and deposition settings continues to increase, but fails to match the rise in demand in the communication access realtime translation field, in which realtime captioning services are provided on a one-on-one or group basis for people with hearing loss.

Perhaps even more telling is the impact salary or income has on the number of qualified captioners. In order to attract qualified captioners, salaries should be commensurate with skill, knowledge, and experience. Unfortunately, such is not the case at this time, as the primary concern seems to be obtaining the lowest cost services possible, without respect for the quality of those services. The cost of doing business can also be an obstacle to attracting qualified captioners. A good example of this is the difficulty in obtaining reasonable rates from phone companies for data transmission of the captions over the phone lines, as all realtime captioning is accomplished remotely and thus is dependent on the phone lines.

Perception of the captioning profession proves to be another challenge, as much of the general public lacks full understanding of how captions are created. Many people assume that captions are automatically created via specialized equipment, not realizing that it actually requires a specially trained realtime writer to provide live captions. NCRA has worked to correct this through various communications and public relations activities, such as placement of a five-minute film on the profession that appeared more than 500 times over a three-month period on PBS stations across the nation.

Considering the limited resources NCRA has as a nonprofit association, there remains a continual challenge of extending the correct message to the general public about the captioning profession and what it offers to society. NCRA has set aside a good portion of its operating budget over the last few years to assist schools in either starting or enhancing realtime training programs. However, as we have found in our overall education efforts on the need for funding realtime writer training, the most effective method for dealing with this issue often involves the development of effective partnerships or additional assistance that would eliminate some of the obstacles faced with regard to attracting highly qualified individuals to the profession. Some suggestions include:

- Developing a PSA by partnering with distributors to raise awareness of the profession and how it benefits 28 million deaf and hard-of-hearing Americans.
- Creating tax breaks for distributors that provide funding for training grants.
- Expanding broadband access for data transmission at a reasonable cost.

Conclusion

NCRA takes seriously the need to ensure the quality of captions and the regular influx of qualified realtime captioners in order to meet the increasing demand for captioned television programming. To reiterate, NCRA strongly believes that:

- There needs to be a fair, objective standard for quality captioning that takes into account the inherent challenges of providing quality live captioning.
- Best practices need to be established within the industry.
- Mechanisms to ensure that only those individuals qualified to provide quality captions are assigned this essential responsibility need to be introduced and applied throughout the industry.

Moving forward on the issue of caption quality demands the partnership of all stakeholders in identifying possible solutions, and then working together to ensure proposed approaches are reasonable, relevant, and effective within the current captioning environment.

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